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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,264	06/29/2001	Alan C. Noble	05110-034001	8039
26161	7590	09/07/2004	EXAMINER TRUONG, CAMQUY	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			ART UNIT 2127	PAPER NUMBER

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/896,264	NOBLE, ALAN C. 
	Examiner	Art Unit
	Camquy Truong	2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06/29/01.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-29 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-29 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.

Claim Objections

3. Claims 9 -14 are objected to because of the following informalities:
 - (a). As to claim 9, line 8, missing “ on the ”. Appropriate correction is required.
 - (b). As to claim 10, line 12, missing “ on”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. The following terms lack proper antecedent basis:
 - i. The software and the chosen location – claim 1;

- ii. The corresponding process – claim 27;
- iii. The ability – claim 28;
- b. The claim language in the following claims is not clearly understood:
 - i. As to claim 1, line 11, it is not clearly understood how the process can be changed (i.e. base on what criteria?).
 - ii. As to claim 17, line 6, it is not clearly indicate what type of operation? (i.e. process?).
 - iii. As to claim 27, line 10, it is not clearly understand which one of the processes (i.e. parsing, layout, rendering or all of them).
 - iv. As to claim 29, line 19, it is not clearly understand which one of the processes (i.e. parsing, layout, rendering or all of them).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (U.S. Patent 6,678,715 B1) in view of Applicant Admitted Prior Art (AAPA).

8. As to claim 1, Ando teaches the invention substantially as claimed including: A client-server computing process (col. 3, lines 65-66), the computing process comprising:

Initiating a request at a client (col. 9, lines 63-64);

Communicating the request to the server (col. 4, lines 1-2);

Configuring the software carrying out processes so that the location at which the process is performed can be changed between server and client at run time (col. 4, lines 7-16; lines 38-41; col. 6, lines 19-22; col. 12, lines 44-54);

Making a load-balancing determination as to whether the process should be run at the server or client (col. 4, lines 14-16 and 26-41; col. 12, lines 44-54);

Running the process at the chosen location (col. 4, lines 1-3 and lines 14-15; col. 6, lines 20-22).

9. Ando does not specifically teach that the information returned from the server goes through at least parsing, layout, and rendering processes before displayed at the client. However AAPA teaches in response to a user request, a respond is returned from the server and a series of processes including fetching, passing, layout and rendering are carried out (page 1, lines 11-13).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching the Ando and AAPA because AAPA's series of processes would improve the quality of responses returned to

client by making sure that all necessary process will be performed in a timely manner.

11. As to claim 2, AAPA teaches the client-server computing process is a web browsing process, and the server and clients are a browser server and a browser clients (page 1, lines 11-12).

12. As to claim 3, AAPA teaches the browser server communicates with a web server to retrieve information (page 1, lines 31-32).

13. As to claims 4-20, 24 and 26-29, Ando teaches the load balancing determination is based at least in part on a quality of service determination of the quality of service provided by one or both of the client and server (col. 3, lines, 58-61; col.4, lines 24-35; col. 12, lines 44-50).

14. As to claims 21 and 23, AAPA teaches the computing of claim 1 further comprising a script evaluation and execution process that can be run at either the client or the server based on the outcome of a load balancing determination (page 1, lines 21-22).

AAPA teaches

15. As to claim 22, the rendering process is always performed at the client (page 1, lines 25-26).

16. As to claim 25, Ando teaches the computing process of claim 1 wherein the load balancing determination is based of one or more of the following: client computational resource, client load, server computational resources, server load, number of clients per server, network traffic between clients and server, and security (col. 4, lines 25-35 ;col. 12, lines 43-49; col. 40, lines 6-8).

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (703) 305 - 8888. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

August 26, 2004


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